

THE HONORABLE JAMES L. ROBERT

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE, WASHINGTON

JOHN DOE, as father and natural guardian of, AT LAW AND IN ADMIRALTY  
JANIE DOE, a minor,

Plaintiff,

NO: 17-CV-01863-JLR

v.

HOLLAND AMERICA LINE N.V., et. al  
Defendants.

ORDER APPOINTING SETTLEMENT GUARDIAN AD LITEM

THIS MATTER having come regularly before the Court upon the Petition of Charles Moure and Keith Brais, attorneys for John Doe, father and natural guardian, and Janie Doe, a minor, to appoint a Settlement Guardian ad Litem on behalf of the above-named minor, and the Court finding that the facts set forth give the Court jurisdiction over this matter, and that pursuant to Washington Court SPR 98.16W, and that the Court having reviewed said Petition and the attachment thereto, having reviewed the evidence presented by counsel, having heard the presentation of counsel, and being fully advised in the premises, now, therefore, it is hereby;

ORDERED, ADJUDGED, AND DECREED as follows:

- 1) Settlement Guardian Ad Litem should be appointed for JANIE DOE, the minor Plaintiff;

1           2) Attorney BARBARA J. BYRAM is a person found or known by the court to be a  
2 suitable, disinterested person having the requisite knowledge, training, and expertise to perform the  
3 duties required by RCW 11.88.090 and SPR 98.16W, and is hereby appointed to represent the  
4 interests of the named minor.

5           3) The Guardian Ad Litem is authorized to expend up to 20 hours of time in conducting  
6 her duties and preparing her report, at her usual hourly billing rate for legal services, currently  
7 \$300.00 per hour. Should additional time be needed, a petition shall be presented to the Court  
8 requesting same;

9           4) Upon resolution of this cause, whether by settlement or by judgment, the Settlement  
10 Guardian Ad Litem is specifically authorized and directed to prepare and present a Report to the  
11 Court pursuant to SPR 98.16W; and

12           5) Plaintiffs' counsel, Charles Moure and Keith Brais and the law offices of Moure Law,  
13 pllc and Brais Law Firm, are hereby specifically authorized and directed to continue to appear as  
14 counsel on behalf of the minor Plaintiff, JANIE DOE and her father and natural guardian, John Doe.

15                   ***IMPORTANT MESSAGE FOR THE SETTLEMENT GUARDIAN AD LITEM:***

16           A. Duties. The Settlement Guardian ad Litem shall have the following duties:

- 17           1. To investigate and evaluate the adequacy of the offered settlement in light of the  
18 needs and best interests of the minor or incapacitated person.
- 19           2. To review written or oral reports from the attorneys, guardians, and medical providers  
20 necessary to permit a complete report as required by SPR 98.16W.
- 21           3. To provide the court with a written report, which shall include a description, **in depth**  
22 **appropriate to the magnitude of injuries and the amount offered**, of the following  
information, as a minimum:

23           a) Summary: State the amount of the settlement that you are recommending, and  
24 how the net proceeds will be distributed. Include the name and contact information of  
25 parents and another relative: List the name and address of each parent of the minor and  
26 another relative. This information will be used in the event the court needs to contact the  
minor upon turning age 18 or if the court needs to contact the parent for a missing report if  
required. Because of the confidentiality clause in the tentative settlement agreement the  
amount must be kept confidential and filed under seal for review by the Court.

1           b) Appointment of Settlement Guardian ad Litem: State your name, date of  
2 appointment, and the date that you started working on this matter. Give a brief statement of  
3 your experience and qualifications as pertain to serving as a Settlement Guardian ad Litem, or  
4 attach a Curriculum Vitae, with this information. Describe your relationship, if any, with  
5 involved parents, guardians, insurers, or attorneys.

6           c) Investigation: Describe the investigation you conducted, the persons interviewed,  
7 and the documents you reviewed.

8           d) Description of Incident and Cause of Action: Describe the incident and the  
9 affected person's legal claims.

10           e) Injuries: Describe the injuries, diagnosis, course of treatment, and prognosis for  
11 future disability. Attach a copy of a recent supporting medical report or medical record.

12           f) Damages: Describe the special and general damages that are potentially  
13 recoverable.

14           g) Liability Issues: Describe the factors bearing on each potential defendant person or  
15 entity's liability, including issues of primary negligence, contributory or comparative  
16 negligence, causation, and probable chance of recovery.

17           h) Insurance & Assets Available to Satisfy Claim: State the nature and extent of all  
18 insurance coverage or assets available to satisfy the claim, whether maintained through the  
19 defendant, the family, or available through government entitlements.

20           i) Liens and Subrogation: Identify all liens, subrogation, and reimbursement  
21 claims. Make a recommendation regarding how those claims are to be  
22 resolved including a recommendation regarding retention in any attorney's  
23 trust account of the full amount claimed until the final resolution of the claim.

24           j) Other Claims: Identify all other claims arising out of the same occurrence. State  
25 whether another family member has a claim arising out of the same occurrence, and whether  
26 any family member is or could be a plaintiff or defendant in any action based upon the  
minor's claim or the occurrence from which it arose.

          k) Apportionment: Indicate the amount, basis, and justification for allocating the  
gross settlement to be paid among the various claimants of the same family or unrelated  
claimants, if any. State whether the minor or incapacitated person was independently  
represented at the time the proposed apportionment was determined.

          l) Proposed Settlement: Discuss and evaluate the reasonableness of the proposed  
settlement amount, stating the basis for your valuation of the claim. Also discuss the form  
the settlement might take (e.g. blocked account, guardianship, structured settlement, or trust)  
and the proposed settlement documents.

          m) Expenses and Fees: Discuss and evaluate the reasonableness of the attorney's fees  
requested, costs to be reimbursed, and any other deductions from the proceeds of the claim.

1 n) Disposition of Net Proceeds: Set forth your calculation of the net proceeds of the  
2 claim. Begin with the proposed offer and subtract attorney's fees and costs, liens and  
3 subrogation reimbursements, and settlement guardian ad litem fees.

4 Give your reasons and recommendations regarding as to how the funds should be  
5 placed. If a legal guardianship is required, state the nominee and the terms that you  
6 recommend. If you recommend a structured settlement, state why that option is preferred; the  
7 specific payout schedule recommended and how it relates to the specific needs of the minor;  
8 and a statement which includes the cost of the structured portion, the interest rate received,  
9 the name and financial rating of the company providing the annuity. If you or any party  
10 recommend the creation of a trust as recipient of the settlement funds, give your  
11 recommendation as to the special needs of the incapacitated person and how they would be  
12 served by having a trust; specific provisions that ought to be included or omitted from the  
13 trust; and your nomination of professional to draft the trust, and a recommended fee  
14 therefore.

15 o) Settlement Guardian ad Litem Fees: Attach a declaration of your time and  
16 services, giving your professional rate and the amounts sought. Indicate who you recommend  
17 pay these fees and costs.

18 p) Presence at Hearing: State whether the minor or the Settlement Guardian ad  
19 Litem, or which other person(s) should be present at the hearing to approve the settlement.

20 q) Settlement Approval Sought in Other Jurisdiction: State whether the settlement  
21 has been submitted for approval in any other court or jurisdiction.

22 r) Conclusion: Give your recommendation as to the adequacy of the offered  
23 settlement, and the steps to be followed if you recommend that the settlement not be  
24 approved.

25 B. The Settlement Guardian ad Litem shall file a report with the court within forty-five days  
26 after appointment and provide a copy to each party, or to their counsel, if they are  
represented.

C. To accomplish all other duties specifically required under SPR 98.16W and any order of the  
court filed herein.

D. The cost of bringing this proceeding and the Settlement Guardian ad Litem's fee will be paid  
as approved as a part of the settlement, or is reserved for determination at the time the  
settlement is submitted to the court.

E. The Settlement Guardian ad Litem shall not employ or retain counsel or experts to assist in  
these duties except as authorized in advance by the court, and shall promptly advise the court  
if others have retained such a person without court authorization, including, but not limited to  
the retention of counsel to initiate litigation or draft a trust.

F. The Settlement Guardian ad Litem may seek instruction from the court upon application and  
notice to all parties. If records or portions of the report contain confidential information  
which may adversely affect the settlement or trial of the claim, the Settlement Guardian ad  
Litem shall seek direction from the court.

1 G. Counsel or party requesting this appointment is directed to provide a copy of this order to the  
2 Settlement Guardian ad Litem.

3 SUBMITTED this 27<sup>th</sup> day of June, 2018.

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6 THE HONORABLE JAMES L. ROBART

7 Presented by:

8 Dated: June 22, 2018

9 Respectfully submitted,

10 **BRAIS Law Firm, P.A.**  
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